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No. 05-

In The

Supreme Court of the United States

John Lavell Williams,

Petitioner,

v.

State of Michigan,

Respondent.

On Petition for a Writ of Certiorari
To the Michigan Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether reasonable suspicion of criminal activity is required before a police officer may extend a traffic stop beyond the scope of the initial stop, in order to detain the driver for further questioning unrelated to the reasons for the initial stop.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner John Lavell Williams respectfully petitions for a writ of certiorari to review the judgment of the Michigan Supreme Court in this case.

OPINIONS BELOW

The opinions of the Cheboygan County Circuit Court and of the Michigan Court of Appeals are unpublished. The Michigan Supreme Court issued an opinion on May 11, 2005, which is reported, *People v Williams*, 696 N.W.2d 636 (Mich. 2005).

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1257(a). The Michigan Supreme Court entered final judgment on May 11, 2005. Petitioner files this timely petition for a writ of certiorari, claiming that his rights under the United States Constitution have been violated.

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment to the Constitution of the United States provides as follows:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [U.S. Const. amend. IV.]

STATEMENT OF THE CASE

Overview

Petitioner was pulled over by the police for speeding. When asked his destination, he responded that he was going to Cheboygan, Michigan, and that he would be staying at the Holiday Inn. The police officer, based on the fact that there is no Holiday Inn in Cheboygan, ordered Petitioner out of the car to detain him for further questioning unrelated to the reasons for the initial stop. The officer admitted that he lacked a particularized suspicion, but claimed that he was "suspicious that something wasn't quite right." During the

continued detention and questioning, a search of Petitioner's car revealed cocaine and marijuana.

Although the trial court refused to suppress the evidence seized from Petitioner's car, the Michigan Court of Appeals reversed, holding that there was no reasonable suspicion to extend the scope of the initial traffic stop in order to investigate unrelated matters.

The State of Michigan applied for leave to appeal to the Michigan Supreme Court, arguing that a split of authority existed in the United States Circuit Courts of Appeals regarding the proper scope of questioning during a traffic stop, and that the Michigan Supreme Court should adopt the position that questions unrelated to the reasons for the traffic stop are permissible.

The Michigan Supreme Court, without conducting oral argument, issued an opinion reversing the Michigan Court of Appeals. The Michigan Supreme Court, relying almost exclusively on federal Circuit Court precedents, held that when conducting a traffic stop, the police officer may

ask questions about the circumstances leading to the stop, as well as any follow-up questions "when the initial answers given are suspicious." The Court did not require a showing of "reasonable suspicion," as that term has been delineated by case law. Petitioner now seeks a writ of certiorari to review that decision.

Factual Setting

On February 14, 2003, Trooper Jason Varoni of the Michigan State Police was in the median of interstate 75 in Cheboygan County, Michigan, observing northbound traffic and checking speed with radar. (*People v Williams*, Cheboygan County Docket No. 02-6898-FH ["trial record"], Transcript of preliminary examination, 2/26/03 [which was admitted into evidence at Petitioner's bench trial] ["P/E"], page 5). Shortly after 4 o'clock in the afternoon, he saw a blue Chevy sedan traveling faster than the posted limit of 70 miles per hour. (P/E, p 6). The officer then made a traffic stop for the speeding violation. *Id.*

When stopped, Petitioner gave the officer a valid driver's license, registration, and proof of insurance. (P/E, p 33). The officer testified that these pieces of information were all that he needed in order to complete the traffic stop—a civil infraction under Michigan law—and determine whether to issue a ticket or simply give the driver a warning. (P/E, pp 6, 34). Nonetheless, the officer questioned Petitioner about his destination, although the officer admitted that this question was not relevant to the speed of the car, which was the purpose for the traffic stop. (P/E, pp 6, 34-35).

Petitioner told the officer that he was going to the City of Cheboygan to visit some friends and that he would be staying at the Holiday Inn. (P/E, p 6). The officer became suspicious because there is no Holiday Inn in Cheboygan, although there is one in nearby Mackinaw City. (P/E, pp 6, 35, 38). The officer admitted that because there was a nearby Holiday Inn, Petitioner could have simply been mistaken about the location of the hotel. (P/E, pp 35, 38).

Nonetheless, based on Petitioner's statement about staying at the Holiday Inn, the officer ordered Petitioner out of the car for further questioning. (P/E, p 7). The officer's testimony, as reflected in the following excerpt, demonstrated that the basis for further detaining Petitioner was a mere hunch predicated on the statement about the Holiday Inn:

Q. And the fact that someone misstates where they're staying um, you're saying that made you suspicious of him, is that right?

A. Uh, you—you can call it what you want, I don't know about suspicious but yeah, it made me think twice about the statements he made.

Q. All right, so you weren't suspicious?

A. Yeah, I—I questioned his statements.

Q. Well, now when you're talking about suspicion you understand suspicion of something, right? Of some activity that's unlawful, right?

A. Yes, that could be.

Q. Well what was it about that response that you were suspicious of that was unlawful?

A. I wasn't suspicious of any particular thing that was unlawful.

Q. So it was unparticularized suspicion is that what you're saying?

A. Um, I guess that could be.

Q. Okay. Because you couldn't put your finger on what it was you were suspicious of, right?

A. I was suspicious that something wasn't quite right.

Q. But you did not know what it was, right?

A. That's right.

* * *

Q. All right, so we're back to this one sole statement as your basis of being somewhat suspicious of whatever you—you were thinking, right?

A. Right.

Q. And it's at that point that you then order him out of the car, right?

A. Yeah. Yes.

Q. And your purpose for continuing this investigation was based on this response from him, right?

A. Yes.

Q. Your purpose of the initial stop had seized [sic]; you weren't investigating speeding violation anymore were you?

A. No, no I wasn't.

Q. All right. That was over?

A. For the mo—yes.

Q. All right. And he was not free to go from this moment on, right?

A. That's correct. [P/E, pp 38-39, 40-41.]

When Petitioner complied with the officer's demand to step from the car, he was asked further questions. The officer then asked Petitioner details about his travel plans, the location of his luggage, whether he had ever been in trouble before, and whether he had ever been arrested for narcotics offenses before. (P/E, pp 7-9). Petitioner's two passengers were then questioned, as well. (P/E, pp 9-11).

The officer then requested a consent search of Petitioner's car, but did not inform Petitioner that a canine unit would assist with that search. (P/E, pp 12, 43). Petitioner complied, and a canine unit arrived to conduct a search of the car. (P/E, pp 12-14). The canine began scratching at the rear seat of the interior of the car, prompting